

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**JAMES R. COOTS,**

**Plaintiff,**

**v.**

**Civil Action 1:22-cv-625**

**Judge Matthew W. McFarland**

**Magistrate Judge Kimberly A. Jolson**

**OFFICER TWILLA, et al.,**

**Defendants.**

**REPORT AND RECOMMENDATION**

On December 19, 2023, the Undersigned ordered Plaintiff to show good cause within twenty-one days why Defendant Twilla should not be dismissed from this action for failure to serve and why an extension of time to effect service should be allowed. (Doc. 61). Over a month has passed, and Plaintiff has failed to effect service on Defendant Twilla or respond to the show cause order. As the Undersigned noted in her show cause order, Rule 4(m) of the Federal Rules of Civil Procedure requires the Court to dismiss an action without prejudice if the defendant is not served within 90 days after the complaint is filed unless the plaintiff shows good cause for the failure. (*Id.*). The Complaint in this action was filed over a year ago, and Defendant Twilla has not been served.

Based upon the foregoing, it is **RECOMMENDED** that Defendant Twilla be **DISMISSED** from this action without prejudice for failure to timely effect service of process under Rule 4(m) of Federal Rules of Civil Procedure.

**Procedure on Objections**

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed finding or recommendations to which objection is made, together with supporting authority for the objection(s). A District Judge of this Court shall make a *de novo* determination of those portions of the Report or specific proposed findings or recommendations to which objection is made. Upon proper objection, a District Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence, or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the district judge review the Report and Recommendation *de novo* and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: January 25, 2024

/s/ Kimberly A. Jolson  
KIMBERLY A. JOLSON  
UNITED STATES MAGISTRATE JUDGE